

1 SENATE BILL 359

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Pete Campos

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10 AN ACT

11 RELATING TO PUBLIC MONEY; REPLACING THE CURRENT CAPITAL PROGRAM
12 PLANNING FOR STATE AGENCIES; ENACTING THE CAPITAL PLANNING AND
13 MONITORING ACT; INCREASING FISCAL AND PROGRAMMATIC SCRUTINY OF
14 CAPITAL OUTLAY EXPENDITURES; CREATING THE CAPITAL PLANNING AND
15 MONITORING DIVISION IN THE DEPARTMENT OF FINANCE AND
16 ADMINISTRATION; PROVIDING DUTIES; MAKING TRANSFERS.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
20 through 6 of this act may be cited as the "Capital Planning and
21 Monitoring Act".

22 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
23 Capital Planning and Monitoring Act:

24 A. "capital project" means a project located in New
25 Mexico that includes the acquisition, repair, alteration,

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1 demolition, renovation, construction or reconstruction of a
2 public building or other public works owned by an eligible
3 entity, including planning and design and professional
4 engineering, surveying, architectural and landscape
5 architectural services directly related to the capital project;
6 purchase of rights of way or easements; purchase of land for a
7 public building or other public works; site improvements to
8 public property; purchase and installation of equipment of a
9 long-term nature for a public building or other public works;
10 purchase of furniture as part of a renovation or construction
11 of a public building; purchase of motor vehicles or heavy
12 equipment; and hardware and software for voice, radio, video
13 and data communications;

14 B. "division" means the capital planning and
15 monitoring division of the department of finance and
16 administration;

17 C. "eligible entity" means a state agency or
18 institution, a tribe or a political subdivision or agency of
19 the state or a tribe; and

20 D. "tribe" means a federally recognized Indian
21 nation, tribe or pueblo, or a subdivision or an agency of a
22 federally recognized Indian nation, tribe or pueblo, located
23 wholly or partially within New Mexico.

24 SECTION 3. [NEW MATERIAL] CAPITAL PLANNING AND MONITORING
25 DIVISION CREATED--DUTIES.--

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1 A. The "capital planning and monitoring division"
2 is created in the department of finance and administration.

3 The division shall:

4 (1) either directly or through coordination
5 with other responsible state and local agencies, direct capital
6 project planning for the executive branch, for state
7 institutions and for local governments that seek state funding
8 for capital projects;

9 (2) coordinate with the appropriate state and
10 federal agencies that provide capital project funding for local
11 governments, other eligible entities and rural areas;

12 (3) work with state agencies, state
13 institutions, local governments and the legislature to develop
14 priorities for capital projects that the executive branch
15 proposes to the legislature to be funded through the capital
16 outlay process;

17 (4) oversee, either directly or through other
18 responsible state agencies, all state-funded capital projects
19 to ensure timely execution of approved capital projects, proper
20 expenditures of state funding and timely reversion of
21 unexpended balances;

22 (5) develop procedures to ensure current and
23 complete accounting and reporting on state-funded capital
24 projects;

25 (6) maintain a central database on capital

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1 projects that includes the fiscal and programmatic status of
2 each capital project;

3 (7) identify stagnant capital projects and
4 recommend deauthorization to the legislature;

5 (8) identify capital projects that have been
6 completed and fund balances that are available for reversion;

7 (9) provide training and assistance to
8 eligible entities on planning, budgeting and administration of
9 capital projects, including proper accounting and monitoring
10 and completion of capital projects within statutory deadlines
11 and the reversion of unexpended funds as required by law;

12 (10) work with the board of finance division
13 to ensure that capital projects authorized by the legislature
14 are properly certified for the issuance of bonds and to ensure
15 that capital projects proceed in a timely manner as required in
16 the appropriating legislation and meet federal and state
17 requirements; and

18 (11) provide capital outlay project
19 information required by the legislative council service to
20 draft capital outlay legislation.

21 B. The division may conduct compliance and
22 performance audits of capital projects and may coordinate those
23 audits with the financial audits conducted by the state auditor
24 or other independent auditor.

25 C. All state agencies, local governments,

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1 institutions and instrumentalities shall assist and cooperate
2 with the division as required for the division to carry out its
3 duties.

4 D. The division shall promulgate rules necessary
5 for the administration of the Capital Planning and Monitoring
6 Act.

7 SECTION 4. [NEW MATERIAL] STATE CAPITAL IMPROVEMENTS

8 PLAN.--The division shall prepare and annually update a
9 five-year "state capital improvements plan" that details the
10 capital projects recommended to be undertaken by eligible
11 entities with state aid or under state regulation. The plan
12 shall:

13 A. include an economic forecast and a discussion of
14 economic activities that bear on the need for state or local
15 infrastructure;

16 B. include a description of outstanding capital
17 projects being funded with state money, their estimated
18 completion date, their initial cost, their estimated completion
19 cost and their estimated operational costs for the first five
20 years;

21 C. classify capital projects with respect to
22 urgency and need for realization;

23 D. recommend a time sequence for construction or
24 purchase of specific capital projects;

25 E. contain an estimated cost of each capital

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1 project, as well as the probable operating and maintenance
2 costs of each project;

3 F. identify any revenue that will be generated by a
4 capital project;

5 G. identify existing or additional sources of funds
6 needed for construction and operation of each capital project;

7 H. identify the eligible entity that owns or will
8 own a capital project; and

9 I. provide other information for any capital
10 project or for the state capital improvements plan as
11 determined by the division.

12 SECTION 5. [NEW MATERIAL] CAPITAL PROJECT REQUESTS--
13 GUIDELINES--INFRASTRUCTURE CAPITAL IMPROVEMENTS PLANS--
14 SUBMISSION TO DIVISION--RECOMMENDATIONS TO LEGISLATURE.--

15 A. By January 15 of each year, the division shall
16 publish capital project guidelines to be followed by eligible
17 entities that plan to seek funding for any capital project in
18 the next year's legislative session. The guidelines shall also
19 identify those provisions that a tribe is required to follow in
20 seeking funding for a capital project.

21 B. The guidelines shall include provisions to guide
22 state agencies that review capital project requests or local
23 government infrastructure capital improvements plans. The
24 state capital improvements plan and each local government's
25 infrastructure capital improvements plan shall be updated each

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1 year.

2 C. The guidelines shall include:

3 (1) a requirement that a local government
4 requesting state capital outlay funds is only eligible for
5 funding if it has a completed current audit or has submitted
6 written status reports by the deadlines imposed by the state
7 auditor until compliance with the Audit Act is achieved;

8 (2) a requirement that a local government be
9 current on its budget and quarterly report submissions to the
10 local government division;

11 (3) a requirement for local government
12 infrastructure capital improvements plans to be submitted to
13 appropriate state agencies;

14 (4) requirements for analyzing immediate and
15 future needs of the state, regions of the state and localities;
16 and

17 (5) requirements for analyzing requests in
18 light of:

19 (a) critical needs of the state and
20 local governments, including health and safety needs;

21 (b) the ability of the local government
22 to provide matching funds for the capital project;

23 (c) the availability of other funding
24 sources for the capital project;

25 (d) the capital project's priority on

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1 either the state capital improvements plan or a local
2 government's infrastructure capital improvements plan;

3 (e) the ability to phase the capital
4 project, if necessary, and the availability of funding to
5 complete at least one full, functional capital project phase;

6 (f) the ability of the eligible entity
7 to provide for the operation and maintenance of the capital
8 project;

9 (g) the expected useful life of the
10 capital project;

11 (h) the available alternatives to the
12 capital project as requested;

13 (i) consideration of whether a
14 renovation project will forestall substantial capital outlay
15 costs in the short and long terms;

16 (j) the most appropriate funding sources
17 for types of capital projects; and

18 (k) other considerations as determined
19 by the division.

20 D. By May 1 of each year, all infrastructure
21 capital improvements plans shall be submitted as follows:

22 (1) local government or regional plans that
23 are not otherwise submitted to another state agency are due to
24 the local government division of the department of finance and
25 administration;

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1 (2) water and wastewater plans are due to the
2 department of environment;

3 (3) street, road and highway plans are due to
4 the department of transportation;

5 (4) area agency on aging or local aging
6 program plans are due to the aging and long-term services
7 department;

8 (5) public post-secondary educational
9 institution and special school plans are due to the higher
10 education department;

11 (6) state museum, state monument and historic
12 site plans are due to the cultural affairs department;

13 (7) state agency plans for state agencies
14 under the jurisdiction of the facilities management division of
15 the general services department are due to the facilities
16 management division;

17 (8) state and local government plans that are
18 part of master plans approved by the capitol buildings planning
19 commission are due to the capitol buildings planning
20 commission; and

21 (9) capital improvements plans for the New
22 Mexico state fair, state parks division of the energy, minerals
23 and natural resources department, state armory board, tribal
24 infrastructure board, colonias infrastructure board, water
25 trust board, judicial branch and any other capital improvements

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1 plans or capital project requests that are not specifically
2 assigned to another state agency are due to the division.

3 E. All state agencies that are responsible for
4 reviewing capital project requests shall submit their
5 recommendations to the division by July 1 of the year prior to
6 the year in which funding is sought. For local government
7 projects, the recommendations shall include comprehensive
8 analysis of the local government's capacity and effort to fund
9 the requested capital project and its ability to operate the
10 capital project, if applicable.

11 F. The division shall publish the annual state
12 capital improvements plan, an abstract of which shall be
13 included in the executive budget recommendations for the
14 following fiscal year and for recommendations to the
15 legislature.

16 SECTION 6. [NEW MATERIAL] REPORTS.--Every state agency
17 responsible for capital projects shall file electronic
18 quarterly status reports with the division on appropriations
19 and expenditures. Every recipient of a state-funded capital
20 project shall file electronic monthly status reports with the
21 division on status of appropriation and expenditures.

22 SECTION 7. Section 9-6-3 NMSA 1978 (being Laws 1977,
23 Chapter 247, Section 3, as amended) is amended to read:

24 "9-6-3. DEPARTMENT OF FINANCE AND ADMINISTRATION--
25 CREATION--TRANSFER AND MERGER OF DIVISION FUNCTIONS--MERGER AND
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1 CREATION OF DIVISIONS.--

2 A. The "department of finance and administration"
3 is created. The department shall consist of those divisions
4 created by law or executive order, as modified by executive
5 order pursuant to Subsection C of this section, including [~~but~~
6 ~~not limited to~~]:

- 7 (1) the board of finance division;
- 8 (2) the financial control division;
- 9 (3) the local government division;
- 10 (4) the management and contracts review
11 division; [~~and~~]
- 12 (5) the state budget division; and
- 13 (6) the capital planning and monitoring
14 division.

15 B. The secretary of finance and administration is
16 empowered to organize the department and [~~the~~] its divisions
17 [~~thereof~~] specified in Subsection A of this section and may
18 transfer or merge functions between divisions in the interest
19 of efficiency and economy.

20 C. The governor is empowered to merge divisions of
21 the department or to create additional divisions by executive
22 order in the interest of efficiency and economy."

23 SECTION 8. Section 9-6-5.1 NMSA 1978 (being Laws 1983,
24 Chapter 296, Section 7) is amended to read:

25 "9-6-5.1. PLANNING POWERS AND DUTIES OF SECRETARY OF
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1 FINANCE AND ADMINISTRATION.--The secretary of [~~the department~~
2 ~~of~~] finance and administration, in addition to the other powers
3 and duties conferred:

4 A. shall review federal grant applications and
5 provide management assistance;

6 B. shall coordinate, in accordance with directives
7 from the governor's office of policy and planning, state agency
8 plans for economic, natural resource, energy resource and human
9 resource development;

10 C. shall provide aid to planning and development
11 districts in developing grant proposals and cooperate with
12 other local entities in developing grant proposals;

13 D. shall acquire, study and review all plans for
14 capital projects proposed by state agencies and render advice
15 on the plans. The secretary shall maintain long-range
16 estimates and plans for capital projects and develop standards
17 for measuring the need for and utility of proposed projects;

18 E. may contract for, receive and [~~utilize~~] use any
19 grants or other financial assistance made available by the
20 United States government or by any other source, public or
21 private;

22 F. may provide planning and funding assistance to
23 units of local government, council of [~~government~~] governments
24 organizations, Indian tribal governments with tribal lands
25 situated wholly or partially within New Mexico and [~~to~~]

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1 nonprofit entities having for their purpose local, regional or
2 community betterment. The secretary, incident to any such
3 programs, may enter into contracts and agreements with such
4 units of local government, council of ~~[government]~~ governments
5 organizations, Indian tribal governments, nonprofit entities
6 and the federal government and may participate in or receive
7 aid from any federal or private program in relation to such a
8 planning program or assistance;

9 G. shall confer with the state budget division ~~[of~~
10 ~~the department of finance and administration]~~ and the capital
11 planning and monitoring division in developing comprehensive
12 plans to assure coordination of planning and budgeting
13 functions;

14 ~~[H. shall coordinate the state clearinghouse review~~
15 ~~process;~~

16 ~~I. shall develop a status of the state report;~~

17 ~~J. shall review and coordinate comment by state~~
18 ~~agencies on draft environmental impact statements;~~

19 ~~K.]~~ H. shall provide community development block
20 grant technical assistance to local governments;

21 ~~[L.]~~ I. shall administer, in consultation with and
22 upon advice and direction from the community development block
23 grant policy committee, the program for the state community
24 development block grant program;

25 ~~[M. shall serve as staff to the New Mexico~~

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1 ~~association of regional councils;~~

2 ~~N. shall maintain a state planning library;]~~ and

3 ~~[0-]~~ J. shall provide planning assistance to county
4 and multi-county districts relative to application by such
5 districts for financial assistance and for regional plan
6 development."

7 SECTION 9. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
8 MONEY, APPROPRIATIONS AND PROPERTY.--On the effective date of
9 the provisions of this act, all functions, money,
10 appropriations, records, furniture, equipment and other
11 property of the capital outlay bureau of the state budget
12 division of the department of finance and administration are
13 transferred to the capital planning and monitoring division of
14 the department of finance and administration.

15 SECTION 10. REPEAL.--Section 6-4-1 NMSA 1978 (being Laws
16 1975, Chapter 282, Section 3, as amended) is repealed.

17 SECTION 11. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2017.